

THE COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
441 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

MEETING OF THE COMMISSION OF FINE ARTS

19 April 2001

AM 10:00 CONVENE, 441 F Street, NW, Washington, D.C. 20001

I. ADMINISTRATION

- A. Approval of minutes: 15 March 2001
- B. Dates of next meetings: 17 May 2001 (the Commission's
91st Anniversary)
21 June 2001
- C. Introduction of Patricia E. Gallagher, AICP, the new Executive
Director of the National Capital Planning Commission.
- D. Report on the CFA/HABS historic Georgetown houses study now
on exhibition at Tudor Place.
- E. Report on the 21 March 2001 hearing of the House Government
Reform Subcommittee on the District of Columbia on the reopening
of Pennsylvania Avenue in front of the White House.
- F. Confirmation of Action on O.G. 01-90, 3100 South Street, NW,
Georgetown Incinerator Project, disapproving the concept proposal
for one additional residential floor to the project.
- G. Report on the recent gifts to the Commission: Secretary of the
Commission (1913-1917) Brigadier General William W. Harts's
memorabilia and portrait.

II. SUBMISSIONS AND REVIEWS

A. National Park Service

CFA 19/APR/01- 1, Jefferson Memorial. Ohio Drive.
Rehabilitation of the lighting. Revised design. (Previous: CFA
15/MAR/01- 1).

II. SUBMISSION AND REVIEWS continued, 19 April 2001

B. Department of the Treasury/ U.S. Mint

1. CFA 19/APR/01- 2, Fifty states circulating/commemorative quarters. Designs for sixteenth through twentieth states: Tennessee, Ohio, Louisiana, Indiana, and Mississippi. (Previous: CFA 17/FEB/00- 6).
2. CFA 19/APR/01- 3, West Point bicentennial commemorative silver dollar. Design.

C. Department of the Navy

CFA 19/APR/01- 4, Anacostia Naval Station. Building A-414, Family Housing Welcome Center. Addition. Design. (Previous: CFA 27/JUL/94-9).

D. District of Columbia Public Schools / U.S. Army Corp of Engineers

1. CFA 19/APR/01- 5, Barnard Elementary School. 430 Decatur Street, NW. New school building. Final. (Previous: CFA 15/FEB/01- 5).
2. CFA 19/APR/01- 6, Weatherless Elementary School/SEED Foundation Public Charter School. 4301 C Street, SE. New dormitory and student center buildings, Phase II. Concept. (Previous: CFA 20/JAN/00- 13, Phase I).

E. District of Columbia Department of Consumer and Regulatory Affairs

1. Old Georgetown Act
Appendix I.
2. Shipstead-Luce Act
 - a. S.L. 01-026, 2800 Davenport Street, NW. Fischman/Rabinowitz Residence. New single family dwelling. Concept. (Last seen: 15 February 2001).
 - b. Appendix II.

OLD GEORGETOWN SUBMISSIONS

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-64 HPA. 01-126	1406 29th Street, NW George Hill Residence	Enclosure of side porch and alterations - permit

ACTION: No objection to issuance of permit for proposed enclosure of side porch and alterations to rear as shown in supplemental drawings received and dated 4 April 2001, which indicate retention of as much of existing exterior wall as possible, and new windows and shutters above railing on porch enclosure.

O.G. 01-90 HPA. 01-190	3100 South Street, NW Millennium Georgetown Partners Georgetown Incinerator The Ritz Carlton	Addition of one residential floor - revised design - conceptual
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ACTION: See letter to Ms. Sheila Cross Reid, Chairperson of the Board of Zoning Adjustment for the Government of the District of Columbia, dated 11 April 2001.

O.G. 01-92 HPA. 01-192	3011 P Street, NW Felix Laughlin Residence	New garage off alley - conceptual
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ACTION: No objection to concept design for proposed new garage off alley as shown in supplemental drawings received and dated 28 March 2001. File new submission of working drawings, including details, with permit application for review by the Commission when ready.

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-94 HPA. 01-194	3314-16 M Street, NW East Banc, Inc Waterworks	Alterations to storefront - conceptual

ACTION: No objection to concept design for alterations to storefronts, part of the Design Center West complex, including glass panels on returns of storefront bay windows as shown in supplemental drawings received and dated 20 April 2001. File new submission, including details and information for signs, with permit application for review by the Commission when ready.

O.G. 01-96 HPA. 01-196	2929 N Street, NW N Street Trust The Edes House Residence	Replacement of stone in front stoop - conceptual
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ACTION: Recommend **AGAINST** concept design for complete replacement of existing historic front stoop at The Edes House. Recommend repair of existing steps and replacement-in-kind of only those materials that can not be repaired. File new submission of permit application for repair and maintenance work for review by the Commission when ready.

O.G. 01-97 HPA. 01-198	1039 31st Street, NW Jean-Claude Cauderlier Café LaRuche	Addition in courtyard rear - conceptual
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ACTION: No objection to concept design for proposed alterations and addition in rear of existing courtyard between two buildings. File new submission of working drawings, including details, paving materials, gates and planters, with permit application for review by the Commission when ready.

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-99 HPA. 01-200	1515 Wisconsin Avenue, NW John Rosselli & Associates Retail	Awning and sign - permit

ACTION: No objection to issuance of permit for proposed black canvas awning with sign composed of 9-inch high gold leaf lettering on 12-inch valance reading "John Rosselli & Associates".

O.G. 01-102 HPA. 01-216	1524 30th Street, NW George Springsteen Residence	In-ground swimming pool - permit
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ACTION: Returned without Action. Submitted materials and site visit of 26 March 2001 indicate that proposed in-ground swimming pool behind fence is not visible from public thoroughfare. Refer to the Historic Preservation Review Board. NOTE: The Commission is on record indicating that existing parking pad crossing over sidewalk is illegal. Recommendations were given during previous reviews that parking pad should be located behind existing fence relocated along front property line.

O.G. 01-103 HPA. 01-217	1053 31st Street, NW Phillips Property Robert Silman Associates	New window openings - permit
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ACTION: No objection to issuance of permit for proposed new window openings and new windows to match materials and detailing of existing sash elsewhere in the building.

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-106 HPA. 01-230	3020 Dumbarton Street, NW Amis and Saunders Residence	Stone retaining wall and flagstone landing - permit

ACTION: No objection to issuance of permit for proposed replacement of existing concrete landing with flagstone. Recommend **AGAINST** issuance of permit for proposed stone retaining wall which is out-of-character with this historic house. Recommend grading of front yard be returned to original slope at height of concrete curb.

O.G. 01-107 HPA. 01-231	1211 Wisconsin Avenue, NW 1211 Wisconsin Avenue, LLC Bebe	Alterations to storefront, rear addition and awning - permit
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ACTION: No objection to issuance of permit for proposed alterations to storefront and alley facade, new awning and for rear addition with trellis as shown in supplemental drawings received and dated 17 April 2001 which indicate additional windows facing alley. Working drawings conform to approved concept design. See previous Action, (O.G. 01-57). File separate submission of detail drawings for signs with permit application for review by the Commission when ready.

O.G. 01-108 HPA. 01-234	3108 P Street, NW Sherbacow and Carr Residence	Alterations to openings on side and rear - permit
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ACTION: Returned without Action. Submitted materials and site visit of 26 March 2001 indicate that proposed alterations to existing and new window openings on rear and side walls are not visible from public thoroughfare. Refer to the Historic Preservation Review Board.

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-109 HPA. 01-235	3408 N Street, NW Patrick and Stephanie Evans Residence	Alterations to rear and side - conceptual

ACTION: Returned without Action. Submitted materials and site visit of 26 March 2001 indicate that proposed alterations to rear and side are not visible from public thoroughfare. Refer to the Historic Preservation Review Board.

O.G. 01-111 HPA. 01-237	1432 Wisconsin Avenue, NW George Gordon Retail	Rear addition and alterations to storefront - conceptual
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ACTION: No objection to concept design for proposed rear addition and alterations to storefront. NOTE: demolition work on exterior of building has occurred without permit or review. File new submission of working drawings, including details and information for any sign, with permit application for review by the Commission when ready.

O.G. 01-113 HPA. 01-239	2619 O Street, NW Hart/Kessner Residence	New bridge over front areaway and rear addition - permit
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ACTION: No objection to issuance of permit for proposed new bridge over front areaway and alterations to front window for entry door as shown in supplemental drawings received 20 April 2001 which indicate detailing of proposed railing matching existing railing and fence. No objection to issuance of permit for proposed rear addition of a wood and glass curtain wall between brick party walls and a metal sloping roof without skylights, and a balcony at second floor level as shown in supplemental drawings received and dated 23 April 2001. Working drawings conform to approved concept. See previous Action (O.G. 01-36)

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-114 HPA. 01-240	3040 O Street, NW Jennifer Gardner Residence	Partial porch enclosure and alterations to rear - permit

ACTION: No objection to issuance of permit for proposed partial enclosure of rear second story porch and alterations to rear, including modifications to one window opening for a single custom door with muntin detailing to match that of window. Existing masonry openings will be retained and remaining original window will be repaired. Working drawings conform to approved concept. See previous Action (O.G. 01-72).

O.G. 01-115 HPA. 01-??	1406 30th Street, NW John Chadwick Residence	Rear dormer - conceptual
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ACTION: No objection to concept design for proposed rear dormer PROVIDED area of windows is reduced and whole dormer is located higher up along slope of rear roof to retain expression of roof as shown in supplemental drawings received and dated 12 April 2001. File new submission of working drawings, including details, with permit application for review by the Commission when ready.

O.G. 01-116 HPA. 01-241	3217 P Street, NW Edmond J. Neam Marvelous Market	Sign - permit
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ACTION: No objection to issuance of permit for proposed sign composed of a 6' by 4' cedar board with raised gold leaf 12-inch high letters reading "Marvelous Market & Café" to be installed on second floor level, replacing previous sign, as shown in supplemental drawings received and dated 5 April 2001. Lettering on rear wall facing parking lot will be removed.

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-118	3021 Dent Place, NW	Rear addition
HPA. 01-242	Mike and Grace Nikkels Residence	- conceptual

ACTION: No objection to concept design for proposed rear addition as shown in supplemental drawings received and dated 5 April 2001 which indicate symmetrical facade elevation with three masonry openings on both first and second floor levels. File new submission of working drawings, including details, with permit application for review by the Commission when ready.

O.G. 01-119 *	3314 Dent Place, NW	Replacement windows
HPA. 01-243	Richard J. Ward Residence	and front stoop - existing - permit

ACTION: Recommend **AGAINST** issuance of permit for existing replacement windows which are out of character with building, part of an historic row. No objection to issuance of permit for proposed wood, true-divided-light, window replacement sash in existing frames to match windows in adjacent buildings. No objection of issuance of permit for paneled front door and for brick stoop with iron railing as shown in supplemental drawings received and dated April 2001.

O.G. 01-120	1054 31st Street, NW	Alterations
HPA. 01-244	R.B. Associates, Inc. Canal Square	off alley - permit

ACTION: No objection to issuance of permit for proposed alterations for additional retail space off alley within existing footprint of building, including new storefront glazing over new concrete wall along alley, and removal of existing masonry walls along corridor to be replaced with storefront glazing. File separate submission of sign permit applications for review by the Commission when ready.

* See ADDENDUM

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-121 *	1524 35th Street, NW	Replacement
HPA. 01-245	Sisters of Georgetown Visitation Monastery	porches - permit

ACTION: No objection to issuance of permit for the repair and replacement-in-kind of wood rear porches at the Sisters of Georgetown Visitation Monastery as indicated in supplemental documents received and dated 17 April 2001. Existing wood columns will be repaired. Replacement columns, where repair is not feasible, will match materials, configuration and detailing of existing columns; the previously proposed fiberglass columns were NOT approved. The existing second and third floor ceilings will be removed. Erect a mock-up of proposed railing for review by the Commission prior to replacement of railings.

O.G. 01-122	1510 26th Street, NW	Replacement
HPA. 01-248	Ozkum and Morrow Residence	fence on rear - permit

ACTION: No objection to issuance of permit for proposed board fence on rear yard and for replacement-in-kind of a stockade fence previously removed.

O.G. 01-123 *	1801 35th Street, NW	Banners and
HPA. 01-249	The Corcoran College of Art & Design Georgetown campus	sign program - permit

ACTION: No objection to issuance of permit for proposed sign program composed of two 2' by 10' banners on 35th Street facade (one by existing Fillmore School sign and one at corner of building), plus one 2' by 10' banner on south facade near entrance visible from parking lot on rear as shown in supplemental drawings received and dated April 2001. Banners will have lettering reading "The Corcoran College of Art and Design". Commission notes that proposed sign program exceeds code limits and recommends a waiver in this location.

* See ADDENDUM

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-124 HPA. 01-258	2611 O Street, NW Constance Zimmer Residence	One-story rear addition - permit

ACTION: Returned without Action. Submitted materials and site visit of 26 March 2001 indicate that proposed one-story rear addition is not visible from public thoroughfare. Refer to the Historic Preservation Review Board.

O.G. 01-125 HPA. 01-260	1693 32nd Street, NW James and Barbara Mauro Residence	Replacement wood fence - permit
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ACTION: No objection to issuance of permit for proposed wood fence. Proposed work is temporary repair and replacement-in-kind. File new submission for proposed brick garden wall with permit application for review by the Commission when ready.

O.G. 01-126 HPA. 01-261	1510 26th Street, NW Ozkum and Morrow Residence	Replacement windows and alterations to front - revised design - permit
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ACTION: No objection to issuance of permit for proposed custom made replacement wood windows in front and rear and alterations for new front door surround as shown in supplemental drawings received and dated 28 March 2001. Working drawings conform to approved concept and design revisions to rear and door surround are acceptable. See previous Action (O.G. 00-220).

ADDENDUM

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-119 HPA. 01-243	3314 Dent Place, NW Richard J. Ward Residence	Replacement windows and front stoop - existing - permit

ACTION: Recommend **AGAINST** issuance of permit for existing replacement windows which are out of character with building, part of an historic row, and were installed without a permit. Agent for the applicant submitted supplemental information for an alternate window that was NOT approved. Review of permit application was on HOLD, pending submission of acceptable supplemental drawings, which applicant failed to submit. Recommend use of wood, true-divided-light, replacement windows to match windows in adjacent buildings. File new submission of detail drawings for window replacement units, with permit application for review by the Commission when ready. No objection of issuance of permit for paneled front door and for brick stoop with iron railing as shown in supplemental drawings received and dated 19 April 2001.

O.G. 01-121 HPA. 01-245	1524 35th Street, NW Sisters of Georgetown Visitation Monastery	Replacement porches - permit
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RECOMMENDATION: No objection to issuance of permit for the repair and replacement-in-kind of wood rear porches at the Sisters of Georgetown Visitation Monastery as indicated in supplemental documents received and dated 17 April 2001. Existing wood columns will be repaired. Replacement columns, where repair is not feasible, will match materials, configuration and detailing of existing columns; the previously proposed fiberglass columns were NOT approved. The existing second and third floor ceilings will be removed. {Erect a mock-up of proposed railing for review by the Commission prior to replacement of railings.}

Revision: No objection to issuance of permit for replacement of wood railings with proposed railings as shown in mock-up installation reviewed during site visit on 26 June 2001, PROVIDED remaining original wood railings are repaired, particularly those visible from P Street. New railings will match detailing of original railings.

19 April 2001

APPENDIX I B: ADDENDUM

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-123 HPA. 01-249	1801 35th Street, NW The Corcoran College of Art & Design Georgetown campus	Banners and sign program - permit

ACTION: No objection to issuance of permit for proposed sign program composed of two 2' by 10' banners on 35th Street facade (one by existing Fillmore School sign and one at corner of building), plus one 2' by 10' banner on south facade near entrance visible from parking lot on rear as shown in supplemental drawings received and dated 9 May 2001. Banners will have lettering reading "The Corcoran College of Art and Design". Commission notes that proposed sign program exceeds code limits and recommends a waiver in this location.

SHIPSTEAD-LUCE SUBMISSIONS

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
S.L. 01-031	30 E Street, SW Verizon Network Services. Inc.	New doorway - Permit

ACTION: No objection to the issuance of permit for new door as shown in drawings received and dated 16 March 2001. Recommend applicant submit exterior signs on building for review by the Commission as required by law.

S.L. 01-033	2660 Woodley Road, NW	Six communication antennas
HPA. 01-250	Marriott Wardman Park Hotel Marriott Corporation	- Permit.

ACTION: No objection to the issuance of permit for six cellular communications antennas mounted on the face of the existing penthouse wall provided antennas are screened and painted to match penthouse wall as shown in drawings received and dated 22 March 2001.

S.L. 01-034	2121 LeRoy Place, NW	One-story side addition
HPA. 01-255	I. Ewan Residence	- Permit.

ACTION: Returned without Action. Property is outside the Shipstead-Luce Act Jurisdiction of the Commission of Fine Arts. (Returned to Permit Processing Division, 11 April 2001.)

S.L. 01-035	1732 Shepard Street, NW	One-story rear addition
	W. Leftwich Residence	- Permit.

ACTION: Returned without Action. Property is outside the Shipstead-Luce Act Jurisdiction of the Commission of Fine Arts. (Returned to Permit Processing Division, 11 April 2001.)

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
S.L. 01-036	3131 Connecticut Avenue, NW Kennedy-Warren Apartments Kling Corporation	New 9-story south wing - Permit

ACTION: No objection to the issuance of permit for construction of South Wing for the Kennedy-Warren Apartment building as shown in drawings received and dated 6 April 2001. Design conforms to previously approved concept design. As with previous concept submissions, the proposal follows closely the original 1930s design by Joseph Younger. (Previous: S.L. 99-39).

S.L. 01-037	3811 Argyle Terrace, NW V. Kuuskraa Residence	Patio water basin - existing - Addendum to permit.
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ACTION: No objection to the issuance of permit for existing patio water basin and fountain as shown in drawings and photographs received and dated 6 April 2001.

S.L. 01-038	550 12th Street, SW JBG/JER 550, L.L.C. Potomac Center Office Building	Addition of three (3) floors and new facades - Concept.
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ACTION: No objection to concept design for Phase I of proposed alterations to existing building, including additions to west and south, and addition of three stories. Recommend additional refinement of east elevation for articulation and modulation. Submission conforms to previously approved concept design. File new submission of working drawings, including details and material samples, with permit application for review by the Commission when ready. (Previous: S.L. 00-118).

S.L. 01-039	2600 Connecticut Avenue, NW Starwood Urban Retail I, LLC Chipotle Mexican Grill	Sidewalk café - Public Space Permit.
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ACTION: No objection to the issuance of public space permit for sidewalk café with seven tables and solid burgundy umbrellas as shown in drawings received and dated 11 April 2001.

THE COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
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MEETING OF THE COMMISSION OF FINE ARTS

19 April 2001

The meeting was convened at 10:25 a.m. in the Commission of Fine Arts offices in the National Building Museum, 441 F Street, N.W., Washington, D.C. 20001. In the absence of the Chairman, due to illness, the meeting was chaired by the Vice-Chairman.

Members present: Hon. Harry G. Robinson III, Vice-Chairman
 Hon. Carolyn Brody
 Hon. Ann Todd Free
 Hon. Emily Malino
 Hon. Eden Rafshoon

Staff present: Mr. Charles H. Atherton, Secretary
 Mr. Jeffrey R. Carson, Assistant Secretary
 Ms. Sue Kohler
 Mr. Frederick J. Lindstrom
 Mr. José Martínez-Canino

National Capital
Planning Commission
staff present: Ms. Nancy Witherell

I. ADMINISTRATION

A. Approval of the minutes of the 15 March meeting. The minutes were approved without objection.

B. Dates of next meetings, approved as:

17 May (the Commission's 91st anniversary)
21 June

C. Introduction of Patricia E. Gallagher, AICP, the new Executive Director of the National Capital Planning Commission. The Secretary introduced Ms. Gallagher, noting that she had come from Chicago, where she had worked in the city's planning office, and that she was a friend of former Commission member Walter Netsch, who had praised her work highly. She was welcomed to Washington by the Vice-Chairman and the other members of the Commission.

D. Report on the CFA/HABS historic Georgetown houses study now on exhibition at Tudor Place. The Secretary recalled that the Commission staff had been working with HABS for the past two-and one-half years on this project in preparation for a book, and that the exhibition at Tudor Place included drawings and photographs and a catalogue with brief histories of the houses included. He said the catalogues had been selling very well, and the exhibition had received many favorable comments.

E. Report on the 21 March hearing of the House Government Reform Subcommittee on the District of Columbia on the reopening of Pennsylvania Avenue in front of the White House. The Secretary reported that Ms. Malino had given the Commission's testimony, which was unusual in that it was in opposition to the administration's position that the avenue should remain closed. He said there had been considerable pressure on the Commission to tow the line, but he thought the position taken was justified in that Congress had asked the Commission for its own view; he said the reaction had been quite favorable. Ms. Malino commented that the panel itself seemed to feel very positive about the reopening. Mrs. Brody asked what the next step was, and the Secretary told her that NCPC had established a task force to reexamine the whole issue, limiting it to two or three possibilities: closing it and redesigning the street area as a garden or other type space, or opening it following either the Federal City Council/Rand Corporation scheme, or the even more recent design by Franck Lohsen McCrery, Architects. He said he expected NCPC to make a report following the task force's review.

F. Confirmation of Action on O.G. 01-90, 3100 South Street, N.W., Georgetown Incinerator Project, disapproving the concept proposal for one additional residential floor to the project. The Secretary recalled that at the last meeting the Commission had made the decision to return this case to the Georgetown Board for further consideration of its favorable recommendation, noting that although there were no particular questions about the design, the members thought there were good reasons why the zoning had been changed 25-30 years ago, and it was important to adhere to those regulations. He also thought the Board appreciated being reminded that the Old Georgetown Act was an act to regulate the height of buildings in Georgetown, something that was often overlooked. As a result of further consideration, the board members reiterated their position of having no objection to the architectural design, but said they were against the granting of a variance by the Board of Zoning Adjustment. He said a letter was sent to that board, a hearing had been held, and he expected a decision in 2-3 weeks. Exhibit A

The Vice-Chairman asked the Secretary explain briefly the basis on which a variance could be granted. Mr. Atherton said there were several tests: One was based on the shape of the property—for example, if it was exceptionally narrow, shallow or oddly-shaped. In this case, he said, the property was a simple rectangle, an entire city block made even more simple by the closing of a public thoroughfare, Copperthwaite Lane, when the property was assembled. The second test had to do with exceptional topographical conditions, or other extraordinary conditions of the property. Again, the exceptional

topographical condition—a steep grade from the measurement point on South Street down to the K Street boundary—worked in favor of the developer as far as allowable height and FAR were concerned. Mr. Atherton also pointed out that the increase in FAR if the new floor were allowed would take it from 2.5, the legal limit, to 2.89; he said he had obtained these figures from the city's planning office.

The Secretary said the confirmation of the new action had been placed on the Old Georgetown Appendix, and it was decided by the members not to discuss it until that item came up on the agenda later in the meeting.

G. Report on the recent gifts to the Commission: Secretary of the Commission (1913-1917) Brigadier General William W. Harts's memorabilia and portrait. The Secretary explained that these had been gifts from General Harts's family, noting that they had rejected an offer from West Point because they were afraid the items would simply be placed in storage. He said family members had visited the Commission's offices and were pleased with his proposals for the placement of the portrait and exceptionally beautiful medals, and with the enthusiasm of the staff at the prospect of the gift. He invited the members to inspect the portrait, which had been hung in his office.

II. SUBMISSIONS AND REVIEWS

A. National Park Service

CFA 19/APR/01-1, Jefferson Memorial, Ohio Drive. Rehabilitation of the lighting. Revised design. (Previous: CFA 15/MAR/01-1). The Secretary recalled, for the record, that the Commission had met with Park Service representatives and the lighting contractors at the Jefferson Memorial the previous evening for a demonstration of the revised lighting scheme. He introduced John Parsons from the Park Service who then asked lighting designer David Mintz to describe the changes that had been made in response to the Commission's comments made after the previous month's demonstration.

Mr. Mintz said they had been able to reduce the intensity of the light on the front of the memorial by using filters with the 400 watt lamps, and they had also been able to eliminate the spill light coming from outside on the text panels. He said the highlighting of the text panels themselves had turned out very well—if you didn't know it was there, you couldn't tell. He said there were still a lot of things to do, but he thought they were all under control. The Vice-Chairman commented that the Commission was fortunate that the Chairman had been able to attend the lighting demonstration, and his approval had been very gratifying to all those present.

There was a brief discussion about the placing of the exterior light poles so that their light did not penetrate the rotunda. Mr. Mintz said it had required only a slight adjustment, and staff member Frederick Lindstrom said he had checked the result at each pole location and thought the problem had been solved. He asked Mr. Mintz what color the poles would be, and Mr. Mintz said that although they had not yet addressed that, it would probably be an anodized finish, most likely a Duranodic bronze.

There were no more questions for Mr. Mintz, and the revised lighting scheme was unanimously approved. Exhibit B

B. Department of the Treasury/United States Mint

1. CFA 19/APR/01-2, Fifty states circulating/commemorative quarters.

Designs for sixteenth through twentieth states: Tennessee, Ohio, Louisiana, Indiana, and Mississippi. (Previous: CFA 17/FEB/00-6). Before introducing a representative from the Mint to present the coin designs, staff member Sue Kohler told the members that the Commission had just received a letter and a memo from the Ohio Bicentennial Commission, the group that had selected the designs to be sent to the Mint. The correspondence said that they had been unhappy with changes the Mint had made to their designs without consulting them, and the writers asked that the letter and memo be read to the Commission. Ms. Kohler said she would first ask the Mint to present the designs for all the coins, with Ohio being presented last, and then she would read the correspondence and show the Ohio designs as they had been submitted to the Mint, so that the members could compare them before making their decisions. She then introduced Barbara Bradford from the Mint.

Ms. Bradford first reviewed the entire process of arriving at the final candidates for the state's design. She said the Mint usually received 3-5 concepts, which might be sent in the form of artwork, photographs of landmarks, written text, or a combination of all three. After determining that each concept met the guideline qualifications, the Mint's artists would produce a finished rendition of each concept. These would then be shown to the Citizens Commemorative Coin Advisory Committee, the Commission of Fine Arts, and the governors, to get their input. After requested modifications had been made, the designs would be sent to the Secretary of the Treasury for approval, and then finally back to the governors, who would make the final choice.

Ms. Bradford then turned to the designs, beginning with Tennessee. She said the governor had expressed a preference for a musical heritage theme; she showed two versions of a design featuring a guitar to symbolize country music, a cornet for the blues, a fiddle for traditional music, and an inscription. There was unanimous preference for design #2, which had a shorter inscription and less clutter in the background. Design #3 had a women's suffrage theme, as Tennessee was the 36th state to ratify the amendment, thereby assuring its passage. Design #4 showed the Cherokee chief Sequoyah with symbols from the Cherokee language behind him. Although Ms. Malino liked Design #3, the other members preferred the musical heritage theme of Design #2, and there was no enthusiasm for Design #4 as it was thought to be too obscure.

Mrs. Rafshoon asked if the designs being shown had already been modified according to the CCCAC's requests. Ms. Bradford said they had, and Mrs. Rafshoon asked if the Commission had not asked that they see the designs before modifications were made. The Secretary said that request had been made several times, and he had recently talked to the deputy director of the Mint about it and about other coin problems. He said the deputy director, John Mitchell, said he respected the Commission's view and would see that the members saw the original designs. Mr. Atherton said he had emphasized to Mr. Mitchell that the Commission still wanted to know what the CCCAC thought about each design and what modifications they had recommended.

The Louisiana designs were shown next, with Ms. Bradford saying that the governor was particularly interested in the pelican, the state bird. Design #1 showed a riverboat and a pelican superimposed on a map of the state. Design #2 showed a larger version of a riverboat with a pelican flying over it. Design #3 featured a map of the United States with the Louisiana Purchase territory outlined. Design #4 had an outline of the state, within which was the inscription "The Bayou State", with a large flying pelican superimposed. It was unanimously agreed that the first choice was #1, the second #2, and the third #4; #3 was not acceptable.

Indiana's designs had two themes: Miami Indian Chief Little Turtle, who was instrumental in peace talks with the European settlers, and the sports of auto racing and basketball. Designs #1 and #2 showed the Indian chief next to a map of the state with a star placed at the state capital, Indianapolis. In Design #1 these elements were flanked by stylized versions of the tulip poplar, the state tree; in Design #2 they were flanked by a total of nineteen stars, standing for Indiana as the nineteenth state. Design #3 showed a racing car and a basketball player superimposed on a map of the state filled with nineteen stars; design #4 showed a racing car, an outline map of the state and a circle of stars. Told that the governor preferred the sports theme, the members agreed that Design #3 was acceptable with no changes, but they did not find #4 acceptable for design reasons. They preferred the Chief Little Turtle theme, however, and selected Design #2 as their first choice, followed by Design #1, with the request that the Mint be sure the tulip popular leaves were rendered correctly if that design were used. Design #3 was the third choice. Mrs. Brody thought this design was really quite good, but she wished it were not entirely devoted to sports, and she wished there were other choices besides Chief Little Turtle.

There were only three designs from Mississippi, with the artwork created by the Mint according to the written concepts submitted. All used the magnolia and mocking bird themes. Design #1, showing only a branch of magnolia leaves and blossoms with the inscription, "The Magnolia State", was the clear first choice, followed by Design #2, with Design #3 not considered acceptable. Commenting on Design #1, the Vice-Chairman suggested that making the magnolia branch slightly smaller would avoid a crowded effect when reduced to coin size.

Ms. Bradford then showed the Ohio designs. She said Design #1, showing an astronaut and a Wright Brothers plane superimposed on an outline map of the state, with seventeen stars around the edge, was the governor's preference. Design #2 was similar, without the stars but with a space capsule added, and an inscription, "Heroes of Aviation". Design #3 featured the state tree and bird superimposed on a state map, with the inscription "Buckeye State". Design #4 had the Wright Brothers plane coupled with one of Edison's early lamps, both superimposed on a state map, with seventeen stars around the edge of the coin.

Of the two aviation designs, #1 was the clear preference, but it was thought that the inscription from #2 should be used to fill in the blank space within the state outline, and care should be taken that the plane was rendered so that it stood out clearly. Questions were asked about the use of the Wright Brothers plane, since it had already appeared on the North Carolina coin. Ms. Bradford said this was actually a different plane, built in 1905 in Ohio. Equally popular with Design #1 was #3, showing the cardinal and the buckeye branch; all thought it was a beautiful design. There was no enthusiasm for Design #4; since the Wright Brothers plane was associated with North Carolina and Edison was

associated with New Jersey, although he was a native of Ohio, the design was considered too confusing.

Ms. Kohler then returned to the Ohio Bicentennial and their criticism of the way the Mint had handled their design submissions. She read into the record a memo from a member of the commission, Beth Deisher, to the executive director, Stephen C. George, which stated that the Mint had changed Ohio's design submissions without informing them and had used historically inaccurate design elements. This was followed by a letter from Mr. George to the Commission of Fine Arts, transmitting Ohio's original designs and commenting on the concerns the Ohio commission members had.

The Commission then compared the designs, noting the differences, which in some cases were not great, and asking Ms. Bradford about the process. She said the designs received from the states were considered concepts; sometimes they came in the form of artwork, at other times, as was the case with Mississippi, they were only conveyed in text form. Then the Mint artists would render the designs with an eye to coinability. Mrs. Free asked what they would do if a state committee found inaccuracies or had other complaints. Ms. Bradford said she was surprised at Ohio's complaints about historical inaccuracies, because they had checked these things out, and in regard to the plane had used material sent to them by the Ohio commission. In any case, she said, the coins were still in the design process, and they would have further conversations with the Ohio group. There was a discussion about the inscription to be used on Design #1. The members were receptive to Ms. Deisher's request to use "Aviation Pioneers" rather than "Heroes of Aviation", and the Secretary commented that North Carolina had not been too happy with "Birthplace of Aviation" as originally used by the Mint on Design #1.

Mrs. Brody observed that the only coin that had won everyone's approval as presented was the one with the bird, Design #3. The Vice-Chairman commented on the difficulties of designing a coin with multiple elements, and in view of the difficulties with the aviation theme design, as expressed by both the Ohio group and the Commission, he asked Ms. Bradford to come back to the staff with any modifications made. Exhibit C, C-1

2. CFA 19/APR/01-3, West Point bicentennial commemorative silver dollar. Designs. Ms. Kohler introduced Jack Szczerban from the Mint to present these designs. Mr. Szczerban said the coins would be produced in both uncirculated and proof condition, and would be sold with a \$10. surcharge which would benefit the Association of Graduates for the purpose of supporting various self development programs for the corps of cadets. They would go on sale in 2002.

Mr. Szczerban showed two obverse designs. No. 1, which was the one preferred by the recipient organization, showed a front-facing color guard in full-dress parade uniform on the West Point plain, with the academy buildings and the chapel in the background. Obverse #2 had the same concept and elements, but was rendered from a different perspective, and there were only three cadets comprising the color guard. Each had the dates 1802-2002, "Liberty" and "In God We Trust" inscribed.

There were also two reverse designs. No. 1, the design preferred by the recipient organization, featured a Greek helmet and sword, taken from the West Point seal, with "West Point Bicentennial", the dates, and other required inscriptions around the edge and in the central area.. Design #2 showed the entire seal, with similar inscriptions.

The members preferred Obverse #1, feeling that the cadets in #2 had a “toy soldier” quality, although Mrs. Brody liked the feeling of motion achieved by this design. For the reverse, there was unanimous approval for #1, the helmet design. Exhibit D

C. Department of the Navy

CFA 19/APR/01-4, Anacostia Naval Station. Building A-414, Family Housing Welcome Center. Addition. Design. (Previous: CFA 27/JUL/94-9). Staff member José Martínez recalled the Commission’s review in 1994 of the design of this building and described the location, near the main gate. He said the proposal was for a one-story addition and a mechanical yard; the mechanical equipment would be placed behind a wall designed to match the original building in style and material. He introduced Larry Earle from the Navy to answer questions.

Mr. Earle said the addition was to accommodate staff to handle personal property for servicemen, a function related to the purpose of the Welcome Center. He said the building in which they were housed at present was scheduled for demolition. The Vice-Chairman asked if the addition was shown on the master plan, and if there was a landscaping plan. Mr. Earle said the need for the addition was identified after the last updating of the plan; as for the landscaping, he thought it would be good if the Commission would recommend it, although he didn’t think there was any money in the budget for it now. Mr. Martínez showed plans for the addition; there were no objection, and it was unanimously approved. Exhibit E

Millennium Clock. Mrs. Free asked Mr. Earle a question about an unrelated topic-the millennium clock still on Massachusetts Avenue in front of the Naval Observatory. She asked if Mr. Earle would see if it could be removed, recalling that it was either not approved or approved only as a temporary installation. Mrs. Brody and the Vice-Chairman agreed that it should be removed, and Mr. Earle said he would certainly look into it.

(The Commission took a brief recess at this point.)

D. District of Columbia Public Schools/U.S. Army Corps of Engineers

1. CFA 19/APR/01-5, Barnard Elementary School, 430 Decatur Street, N.W. New school building. Final. (Previous: CFA 15/FEB/01-5). Mr. Martínez recalled the previous submission of a concept design with several different options for the tower-like element at the 4th and Crittenden streets corner; at that time, he said, the Commission asked the architects to study ways in which to cap that element. There were also some questions about the entrance and the fenestration. He then introduced Carl Kemp from Baker & Associates to bring the members up to date on the design and show material samples.

Mr. Kemp talked first about the tower element. He showed drawings, noting the low pyramidal-shaped roof. He said the scale had been brought down to one he thought was appropriate to a corner facing the neighborhood. Another change that had been made to lessen the impact on the neighborhood was to shorten the building by one bay. He said they were now in the process of meeting with the community to discuss final details for the playground area. He also talked about the materials-brick

and precast—and the general color scheme, and said there would be a materials mock-up on the site before the materials were ordered.

Mrs. Brody asked about the windows. Mr. Kemp said they were still studying them to determine where to use clear glass and where to use translucent panels. He said the clear glass would probably be lightly, but certainly not heavily tinted, and they would present their proposals on a final board. The Vice-Chairman cautioned Mr. Kemp against using Lexan because of its tendency to yellow with age; he thought the more transparency the better so that the children could see out and passers by could see in.

There were no further questions, and the project was given approval, with working drawings to be submitted to the staff for final confirmation. Exhibit F

2. CFA 19/APR/01-6, Weatherless Elementary School/SEED Foundation Public Charter School, 4301 C Street, S.E. New dormitory and student center buildings, Phase II. Concept. (Previous: CFA 20/JAN/00-13, Phase I). The Assistant Secretary recalled the review and approval of Phase I of this project in 2000; because it was on an extremely fast track, the staff was delegated to approve the final drawings. This was accomplished in May, and the new school building and boys' dormitory were ready for occupancy this past winter. Phase II would include the girls' dormitory and a student center housing a cafeteria, gymnasium, and offices. He introduced Susan Cunningham, director of the school, to begin the presentation.

Ms. Cunningham said the school was a public charter school—a college preparatory boarding school—and they were leasing the Weatherless Elementary School from the District of Columbia Public School System. She said the school was in its third year of operation and presently had 120 students in grades 7 through 9. It was open to any public school student in the District, and the students were selected by lottery. She then turned the presentation over to architect Faith Nevins.

Ms. Nevins showed a site plan, pointing out an existing link between the academic building and the proposed student center which would serve as the main entrance to the campus. With the new student center and girls' dormitory, the campus would be enclosed, taking on a courtyard character. In the student center, dining and recreation areas had been placed on the lower level, providing an opportunity for windows to provide some visibility towards the community. Gymnasium and auditorium facilities, without windows, would be on the upper level. Because of economic considerations, the building would be a pre-engineered metal structure. Turning to the dormitory, she said that because of its length, they had decided to articulate it into three separate elements. They would use some metal panels on it, to tie in with the existing classroom building. Living areas and the main stairway would face the front, and there would be ample areas of glass. She said both buildings were expected to be ready for occupancy by fall 2002.

There were no questions for Ms. Nevins, the members were pleased with the concept design, and it was unanimously approved. The Vice-Chairman asked that the staff see any further developments and give final approval, unless there were major changes. Exhibit G

1. Old Georgetown Act

Appendix I Mr. Martínez said the Georgetown Incinerator project, discussed briefly under the Administration section of the agenda, was on the Appendix as O.G. 01-90, 3100 South Street. He noted that the action was related to the letter sent by the Commission to the chairman of the Board of Zoning Adjustment, which outlined the zoning history of the Georgetown waterfront and the Commission's role in it, as well as the Georgetown Board's position on the Incinerator project. The Vice-Chairman noted that the members had seen the letter and that Mr. Atherton had made a presentation earlier in the meeting. He asked if there was a motion to approve the Appendix, commenting that discussion of any of the items on it could come afterwards. Mrs. Brody then moved that the Appendix be approved, Ms. Malino seconded the motion, and the Vice-Chairman then asked for a discussion and any public testimony.

Because of the complexity of the testimony, the transcript of this part of the meeting is attached as Exhibit H.

(Mrs. Brody left the meeting at the end of the discussion.)

2. Shipstead-Luce Act

a. S.L. 01-026, 2800 Davenport Street, N.W. Fischman/Rabinowitz residence. New single family dwelling. Concept. Mr. Lindstrom recalled the submission in February and said the owners, Judy Rabinowitz and her husband, Joel Fischman, were back with Hans Orfner, the regional director of Deck House, to present additional information in answer to the Commission's concerns. These included questions about exactly where on the lot the house would be placed, the precise location of the bridge and the driveway, and storm water management plans. Mr. Lindstrom said more refined elevation plans were also being submitted. He noted the packet he had just given to each member, which contained the Commission's 1989 letter about the subdivision of this property, the ANC's report, letters from the community and from the Forest Hills Citizens Association. He said he also had a letter from Adrienne Coleman, superintendent of Rock Creek Park, to Ms. Rabinowitz. He said he had spoken to Ms. Coleman and determined that the Park Service would prefer that nothing be built on the site, that it be left as a buffer to the park; at the same time, however, they recognized that the applicant had a matter-of-right to build there. In the letter to Ms. Rabinowitz the Park Service spelled out eight areas of concern which, according to Mr. Lindstrom, the applicants had already addressed. Mr. Lindstrom then turned the presentation over to Mr. Fleischman, who in turn asked Hans Orfner from Deck House to discuss changes that had been made.

Mr. Orfner said that from the beginning the owners had wanted to preserve the character of the property. He said they had moved the house and the bridge to keep them as far away from the park as possible and to preserve the largest number of trees; at this point only two large trees would have to be removed. He noted that he had to work with the extremely steep slope of the property, and that he had made changes to the roof in various places to minimize the effect on the neighbors' views. He had also made sure that the mass of the house had been broken up so that it did not appear as a square block. He said the material would be red cedar, possibly stained or painted a neutral color, which was what the Park Service requested.

There was a discussion about the height of the house, and Mr. Fischman tried to explain how his house would relate to the others as far as this was concerned. The Vice-Chairman asked if there had been objections because of the pre-engineered character of the house. Ms. Rabinowitz said there had been no specific objections to the house itself, which was custom designed using some factory-built components, but only to the height, which was actually lower than the others. She said they were well within the zoning regulations, which stated a maximum of 40 feet in height, as their house would be only 35-feet high.

Ms. Malino asked if the issues brought up by the ANC had been addressed. Ms. Rabinowitz said all issues had been addressed with the exception of the height issue, with which they disagreed. The Assistant Secretary asked for a difference in elevation of the property from its high point to its lowest point; he was told by Mr. Orthner that it was approximately 30 feet.

The Vice-Chairman stated that if all information had been presented, it was time to hear from the public. Robert Maudlin, ANC 3F-03 commissioner, was the first to speak. He referred to the report that had been submitted, and then talked about the experience of coming down Davenport Street to Rock Creek Park, and the impact the appearance of this house—definitely more than 40 feet high on the Davenport Street side—would have on the motorist's or pedestrian's first experience of the park. The Vice-Chairman asked him if the ANC could conceivably approve some kind of design for this site, or did they think any building here would be contrary to the park experience and the neighborhood? He said probably the latter best reflected their feelings because of the gateway quality of the street.

Ms. Malino asked if the applicants were familiar with the Commission's 1989 statement that said this corner should be kept open to protect the park experience; Ms. Rabinowitz said they were not, that their real estate agent had not mentioned it. Mr. Maudlin said the ANC had sent the Commission's 1989 statement to the current agents at that time. The Secretary commented at this point that the statement concerned a particular project within a different lot configuration, and that it did not necessarily apply to the present situation.

Mrs. Free thought the members ought to go look at the site to see how the house would fit into its surroundings; she did not think all the talk about heights was very meaningful. The Vice-Chairman agreed, saying that he believed that he had asked in February that the applicants bring in a small, simple model that would place the house on the property so that it could be understood. Mr. Lindstrom also noted that the foundation for the house had been staked out on the site, and that had helped him to visualize it.

The second speaker, Barbara Simons, president of the Forest Hills Citizens Association, talked about the height problem and also about the importance of replacing any trees that would have to be removed for construction or die after construction.

Peter Halle, a Chesterfield Place resident who would be particularly affected by the new house, was the next speaker. He had four points to make. The first concerned the height and the three ways under the zoning regulations that the house could be measured. He said Fischman/Rabinowitz had chosen the most permissive one to arrive at the less-than-40-foot height they claimed, but from most other vantage points it was considerably over that—65 feet at Broad Branch Road and less than 65 but more than 40 at Davenport, for example. Mr. Halle's second point concerned the siting of the house. He

thought the Commission should consider very carefully the statement that the house could not be pushed farther from the park; he thought it could be sited so that it was both farther away from the park and from his house. He said the Commission had an important role to play in this case, that it was not just a matter-of-right consideration. His third point concerned the design. He said he was unhappy with it, and while he couldn't pretend to be an architect, he could say that the design was very different from the other houses in the vicinity. He commented also on the details, specifically the raw concrete used for the foundation, retaining wall, and bridge; he thought should be faced with stone so they would seem like part of the park. Mr. Halle's last point concerned the notice issue. He said he had purchased his property from the same man that sold Fischman/Rabinowitz theirs, and he had a clear idea of the constraints, so he thought they had, too.

Dennis Blumer, a resident on the other side of Davenport Street, said he was sorry that the applicants did not know about the 1989 statements by the Commission, because the sellers certainly did. Although the rules may have been specific to a particular site plan, they were generic in nature and talked about such things as terrain, screening, large trees, etc. He said architect Travis Price, who recently received approval for his house, followed these rules, and there was little, if any, objection to the design by the neighborhood. He said he thought the lot could be built on, but it was a difficult one, and it needed an architect who could handle it without doing damage to it.

The Vice-Chairman asked to make a closing comment. He noted that he had repeatedly asked for additional studies, because there was an absence of detail—no details of the bridge, for example—and of an understanding that this was a very special piece of property. He agreed with Mr. Blumer that the difficulty was that it was impossible to take a pre-engineered house and put it on a lot like this in a very sensitive location and expect to get approval; he saw a clear need to involve a design professional. He noted that it would get almost direct views from several neighbors, and that at the height shown, would be intrusive of their viewsheds. It would also be intrusive of the view down Davenport Street and into the park. He said that in his view the house was not appropriate to the site, either in its quality or design, and he asked for other comments from the Commission.

Ms. Malino made a motion that further conversation or judgements on this property be deferred until the Commission received more information. The motion was seconded and carried unanimously.

Exhibit I

b. Appendix II. Mr. Lindstrom said there were two items he would like to bring to the Commission's attention because they had appeared before. The first was S.L. 01-036, the new south wing for the Kennedy-Warren apartment building. He said there was now a final permit application, and as the design conformed with that approved two years ago, and was in keeping with the original design, it had just been placed on the Appendix. The second item was S.L. 01-038, the Potomac Center office building at 550 12th Street, S.W. This would be Phase I of a two-phase concept seen earlier this year and involved the re-skinning of the south half of the building only. He said he had sample materials and boards to describe it, and it was faithful to the approved concept. He said the only thing he would suggest to the Commission was that there be a bit more modulation in the wall, perhaps something akin to the west, or entrance, elevation, so that it did not appear like a typical office canyon; he noted that it would face the back of the L'Enfant Plaza post office building.

19 April 2001

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There were no objections to these or other Appendix items, and Appendix II was then unanimously approved.

There being no further business, the meeting was adjourned at 2:07 p.m.

Signed,

A handwritten signature in cursive script, appearing to read "Charles H. Atherton".

Charles H. Atherton
Secretary

THE COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
441 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

EXHIBIT A

11 April 2001

Re: BZA case 16702

Dear Ms. Cross Reid:

The Commission of Fine Arts and its Old Georgetown Board have reviewed the proposed increase in height of an additional residential floor at the Georgetown Incinerator project at their respective public meetings 15 March, and 5 April. The Commission is strongly opposed to the project exceeding the zoning height limit at this sensitive location on the Georgetown historic waterfront and the variances sought by the developer to permit this increase.

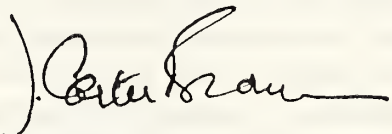
We would like to point out that Public Law 808, the Old Georgetown Act under which we operate, specifically charges the Commission with the responsibility "to regulate the height, exterior design, and construction of private and semipublic buildings in the Georgetown area of the National Capital". The Commission is aware that the forty foot height limitation for the Incinerator project has been measured from South Street, the highest elevation on the site, which is normal practice in developing a scheme with maximum allowable density. However, there is a major drop in elevation of more than forty feet to the south perimeter of the project site, thereby permitting the developers a greatly increased building mass. Its elevation above the grade of K Street is ninety feet as approved. This condition already limits the vista north of the C & O Canal down Wisconsin Avenue and 31st Street to the Potomac River, an important aspect of the historic district. To add an additional floor to the Incinerator project would further diminish this crucial aspect of this site.

Thirty years ago the Commission spear-headed the drive to down-zone the industrial waterfront area which at that time had a height limit of ninety feet. Two new zones were created with height limits of sixty feet and forty feet. This latter category was applied to sites on the waterfront that were deemed especially critical to preserving the views of the Potomac River and national memorials beyond. The Incinerator project site is on one of the most important of these, thus raising the concern of the Commission and the community.

At each public meeting, this important issue was emphasized in testimony. The Old Georgetown Board stated that, from a design standpoint only, the revised scheme adding an additional floor was acceptable. However, in response to the background information on the special zoning designation, the concerns of the Citizen's Association of Georgetown and various community organizations, as well as the precedent of the Commission's efforts to lower the building heights in the waterfront area, the Board recommended against the added height given its context. The Commission strongly concurs with the Board.

I will be happy to address any question you may have regarding the Incinerator project.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Carter Brown". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

J. Carter Brown
Chairman

Ms. Sheila Cross Reid, Chairperson
Board of Zoning Adjustment
Office of Zoning
441 4th Street, NW, Suite 210
Washington, DC 20001

VIA FAX: 202-727-6072

THE COMMISSION OF FINE ARTS

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441 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

EXHIBIT B

30 April 2001

Dear Mr. Carlstrom:

During its meeting 19 April 2001, the Commission reviewed and approved the proposed interior and exterior lighting scheme for the Jefferson Memorial with the provision that the details of the installation are presented to the staff for final review and delegated approval. The Commission appreciated the opportunity to view the second mockup of the proposed new lighting on the evening of 18 April 2001. The members found the exterior lighting to be better balanced with the filters in place, thus reducing the light produced by approximately 30 to 40 percent. Observers in the White House also confirmed that, before the filters were in place, the Memorial appeared excessively bright when compared to the Washington Monument. Filtering seems to be the best long term strategy for maintaining the quality and balance of light considering that as the lamps and instruments age and produce less light, all that will be necessary to compensate is the installation of less dense filters.

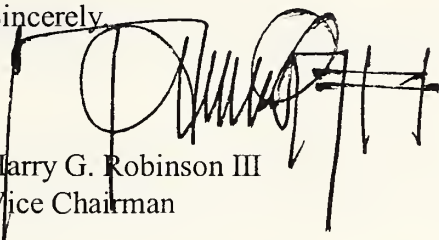
The lighting on the drum at the base of the dome may warrant additional attention. In the mockup the light on this portion of the Memorial seemed too bright and not in balance with the lower facades and the dome. Perhaps the lamps focused on the drum also could be filtered to reduce the "hot spot" that appeared on the east side. This also would present the opportunity to "model" the dome, like the Capitol's, by making the east side slightly brighter to enhance its circular form.

As with the first mockup, we believe the proposed interior changes, including accent light on the sculpture, up-light on the dome, and highlighting the text walls and the inscription in the frieze of the entablature will be an enhancement to the memorial. Every effort should be made to eliminate the spill of exterior light into the chamber. This will guarantee that the interior highlighting will be successful and not look overly contrived.

We look forward to viewing the completed installation and ask that you submit to staff, when ready, the designs for the poles, the placement of all equipment, and the lamping schedule of the individual fixtures to be used. Once again, let us state that we are greatly supportive of the Park Service's desire to update and improve the lighting of the city's monuments and memorials and are grateful to the private companies that are donating time and equipment to this project.

As always, the staff is available for assistance should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Robinson III", with a large circular flourish at the beginning and several horizontal strokes at the end.

Harry G. Robinson III
Vice Chairman

Mr. Terry Carlstrom
Regional Director, National Capital Region
National Park Service
1100 Ohio Drive, SW
Washington, D.C. 20242

cc: John Parsons, NPS

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EXHIBIT C

30 April 2001

Dear Mr. Johnson:

At its meeting on 19 April 2001, the Commission of Fine Arts reviewed reverse designs for the state quarters representing Tennessee, Ohio, Louisiana, Indiana, and Mississippi. The results were as follows:

Tennessee: The Commission selected the Musical Heritage theme and preferred version #2, as it was less crowded than #1. There was not much enthusiasm for either design #3 or #4.

Ohio: Noting Governor Taft's preference for the aviation theme, the Commission chose design #1 over #2 because it embodied more clarity, but they liked the addition of an inscription. It was recommended that "Pioneers (rather than Heroes) of Aviation" or simply "Aviation Pioneers" be added to version #1 within the state boundaries, just below the airplane; "Birthplace of Aviation" was not considered acceptable because of the historical conflict with North Carolina. We should like to note here the letters from members of the Ohio Bicentennial Commission protesting the Mint's changes and additions to the Ohio designs as submitted. In design #1, for example, there was criticism of the addition of the stars on both sides and of the astronaut's overly-detailed spacesuit. The Commission would hope that the Mint and the Ohio commission can arrive at mutually acceptable modifications to the design if it is the one finally chosen.

As an alternative to the aviation theme, there was great enthusiasm for design #3, showing the state bird and tree superimposed on the outline of the state. The rendition of the cardinal and the buckeye branch is very strong and would show up well on a coin, and the state's motto is a nice addition. Design #4 did not have any supporters.

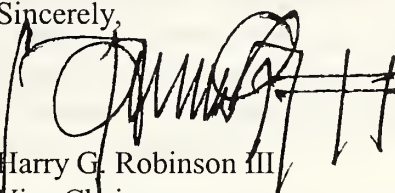
Louisiana: The first choice was design #1, showing a pelican and paddle-wheel steamboat superimposed on an outline of the state. Design #2, with the pelican flying over a similar boat, was the second choice. Design #4, with a flying pelican superimposed on the state outline, and the inscription "The Bayou State", came in third. Design #3, with the Louisiana Purchase territory outlined on a map of the United States, was not acceptable.

Indiana: Design #2, showing Chief Little Turtle with the state outline, enclosed by stars on either side, was the first choice. The same design enclosed by stylized tulip poplars (#1) was second, although it was pointed out that the leaves should be rendered so they look like real tulip poplar leaves. Design #3, which we understand is the governor's choice, was acceptable, but #4, although also featuring a racing car, was not acceptable from a design point of view.

Mississippi: Design #1 was considered by everyone to be a fine design, with the suggestion that making the flower element slightly smaller would avoid the crowding seen when looking at the coin-size rendition. Design #2 was a distant second choice, and #3 was not acceptable.

There is no need to bring any of the designs back to the Commission, but changes made should be shown to the staff for review.

Sincerely,

A handwritten signature in black ink, appearing to read "Harry G. Robinson III". The signature is stylized with large, overlapping loops and a long horizontal stroke at the end.

Harry G. Robinson III
Vice Chairman

The Honorable Jay W. Johnson
Director, United States Mint
801 9th Street, NW
Washington, DC 20220

THE COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
441 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

EXHIBIT C-1

13 June 2001

Dear Mr. Pickens:

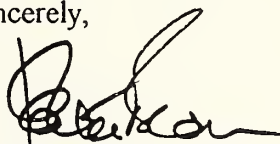
Thank you for your letter of 5 June keeping us informed of the Mint's attempts to make further changes in the Ohio and Louisiana state quarters that will be acceptable to governors Taft and Foster.

In regard to the Ohio coin, the Commission would have no objection to the changes proposed for the airplane and the astronaut. The inscription "Birthplace of Aviation" still presents a problem because most people will think of the event that took place in North Carolina. As the State of Ohio is honoring Ohioans in aviation rather than events, why not say "Birthplace of Aviation Pioneers"? There is room for it on the coin as designed, and I would think it would solve the problem to everyone's satisfaction.

Louisiana presents a different problem—that of having to add additional elements to the design of a relatively small coin. The governor's version of design A-3 showing a riverboat *and* a pelican *and* a trumpet may get too fussy, and it might be better to simplify it and go with the version of A-3 showing just the pelican and the trumpet with the state map behind.

I hope this will be helpful to you; be assured there is no need to bring either of the coins back to the Commission for review.

Sincerely,



J. Carter Brown
Chairman

David Pickens, Associate
Director for Numismatics
United States Mint
801 9th Street, N.W.
Washington, D.C. 20220

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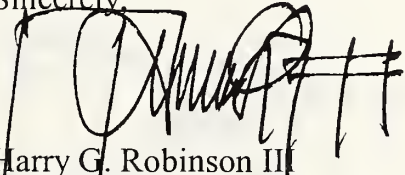
EXHIBIT D

30 April 2001

Dear Mr. Johnson:

At its meeting on 19 April 2001, the Commission of Fine Arts reviewed designs for the commemorative silver dollar honoring the bicentennial of West Point. Of the two designs submitted for each side of the coin, the Commission preferred Obverse #1 and Reverse #1.

Sincerely,



Harry G. Robinson III
Vice Chairman

The Honorable Jay W. Johnson, Director
United States Mint
801 9th Street, N.W.
Washington, D.C. 20220

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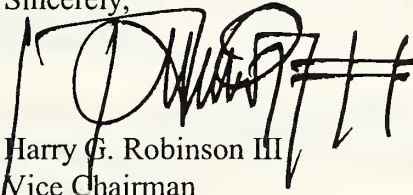
EXHIBIT E

30 April 2001

Dear Mr. Earle:

During its meeting 19 April 2001, the Commission reviewed and approved the designs for the proposed addition to the Family Housing Welcome Center, Building A-414, at the Anacostia Naval Station. The addition retains the character of the structure originally approved in 1994 by repeating the detailing and using the same materials. The Commission requests that a landscape plan be developed and submitted for this site, especially given its strategic location adjacent to the main entry to the base.

Sincerely,



Harry G. Robinson III
Vice Chairman

Mr. Lawrence P. Earle
Department of the Navy
Engineering Field Activity Chesapeake
1314 Harwood Street, SE
Washington Navy Yard, DC 20374-5018

THE COMMISSION OF FINE ARTS

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EXHIBIT F

30 April 2001

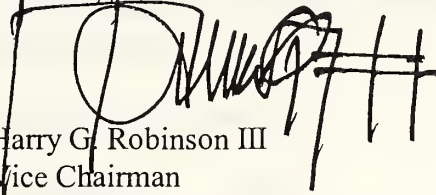
Dear Mr. Block:

The Commission reviewed and approved the design development of the new Barnard Elementary School at 430 Decatur Street, NW, at their meeting 19 April 2001. The revisions to the design, particularly the addition of a shallow pyramidal roof to the corner "tower", are an improvement over the original concept.

We are aware that construction documents will be complete for the bidding process in the next few weeks. Once these are developed and the cost estimates are final, please submit a complete set of working drawings to the staff for final confirmation. Should this process result in significant change to the approved design, the project will be sent on for review by the Commission at the next available meeting.

In any event, the Commission will want to see a material sample panel built on site, on an accessible location facing south, before exterior finish materials are ordered. Please notify the staff as soon as the sample panel is ready for review.

Sincerely,



Harry G. Robinson III
Vice Chairman

Stanley N. Block, P.E.
Chief, Design Management Branch
Department of the Army
Baltimore District, US Army Corps of Engineers
P.O. Box 1715
Baltimore, MD 21203-1715

cc: Walter Hernson, DCPS
Carl F. Kemp, Baker and Associates

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30 April 2001

EXHIBIT G

Dear Ms. Falwell:

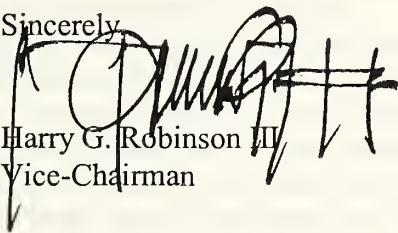
During its meeting of 19 April 2001, the Commission reviewed and approved the concept design for Phase II of the Weatherless Elementary School campus development at 4301 C Street, SE. Phase I working drawings were approved only last May for the classroom building renovation and construction of the boys' dormitory. The "fast-track" schedule permitted occupation in time for winter occupancy. The Commission commends the efforts of Susan Cunningham of the SEED Public Charter School.

The current phase appears as ambitious as the first. The selection of a new group of architects provides a more diverse appearance to the campus, a plus not only for the community but most especially the children. The new buildings, a replacement structure housing the cafeteria and gymnasium-auditorium and a separate dormitory for girls, complete an asymmetrical landscaped quad that should prove quite handsome as it matures.

The Commission understands that the schedule for this phase is nearly as tight as that for the first. Since the applicant will be seeking permit approval as soon as possible, the Commission staff will consider the application when it arrives, and is given the authority to approve the proposal should there be no (or minimal) change from the concept design reviewed. Should there be major differences from the approved concept, the staff will get in touch with the members and seek their recommendations.

The staff is available should any questions arise in the interim.

Sincerely,



Harry G. Robinson III
Vice-Chairman

Ms. Veronica L. Falwell
Deputy Director, Real Estate Office
District of Columbia Public Schools
825 North Capitol Street, NE, Suite 7122
Washington, D.C. 20002-4232

cc: Susan Cunningham, SEED
Faith Nevins, Marks, Thomas and Associates, Inc.

**FROM THE 19 APRIL 2001 CFA MEETING:
pp. 89-133 (Georgetown Incinerator project)**

EXHIBIT H

MR. MARTINEZ-CANINO: The next item is the Georgetown Appendix. You have a white copy in your folders this morning, which is the one presented in front of you.

Like always, there's a few projects that were still pending supplemental information to be able to take them and return them to the District government but the recommendations are pretty much what was shown to you.

VICE CHAIRMAN ROBINSON: Are there particular items here that we should be aware of that need more than a cursory review?

MR. MARTINEZ-CANINO: The one that was discussed earlier this morning is on the first page. It's O.G. 01-90 with the 3100 South Street, Northwest. That's the Georgetown Incinerator project and it should read in the action it's related back to the letter that was sent to the chairperson of the BZA. I do have copies of that letter if you want.

VICE CHAIRMAN ROBINSON: We've all seen the letter. Mr. Atherton made quite an extensive presentation this morning on this issue.

MR. MARTINEZ-CANINO: Yes.

VICE CHAIRMAN ROBINSON: Is there a motion to adopt the Old Georgetown submissions?

MR. MARTINEZ-CANINO: We do have applicants for that project here if you want to listen to them.

VICE CHAIRMAN ROBINSON: Why don't we have a motion and then we can have discussion after we have the motion. Then we'll come back. Is there a motion?

MS. BRODY: I move the Old Georgetown submissions.

VICE CHAIRMAN ROBINSON: Is there a second?

MS. MALINO: Second.

VICE CHAIRMAN ROBINSON: Is there discussion? Is there some intervening public presentation?

MR. LANIER: Esteemed members of the Commission, my name is Anthony Lanier and I'm one of the developers of the controversial incinerator project and I wanted to take this opportunity to clarify perhaps some issues affecting this project.

As you may know, we got to this situation inadvertently as a result of the economic demise of not a tenant but an extremely important component of our project we selected originally in order to create an amenity to the project which was not being utilized during daytime, namely an extraordinary complex and expensive parking garage accommodating 600 cars, which during the day is not utilized by the cinemas while it brings life to K Street, which currently is dead in the evening, and it invigorates the K Street life.

I'd like to take this opportunity to dispel a rumor that this argument is a contrived argument. I had this discussion briefly with Secretary Atherton last week. It had come to my attention that we lacked credibility in the argument of the movie situation and while I'm neither a shareholder of the movie chains nor do I have more insight than many other people, I can assure you that as sure as tomorrow is Friday, the movie industry will not recover financially from where it is within the next 12 months. Major corporations, much cleverer than I, have lost their entire investment in these companies and the movie industry is effectively in bankruptcy.

Now what does that really mean? It doesn't mean that we won't be seeing movies but it does mean that they cannot contribute to the complex as originally contemplated.

We're therefore missing an economic investment by the movie cinemas in the amount of \$25 million plus the rental stream in the amount of \$1.7 million, which we need to replace now because we are currently in construction of precisely that element.

So we're not given the luxury to look far and away for a solution. We either have to stop or find a solution which resolves the issue for us now. That is why we came up with another floor on part of the project. That other floor allows us to convince our construction lenders that we have an alternative revenue source

which we can apply to the completion of the project, thus making up for the failure of the movie industry to A, contribute \$25 million and B, provide us with a credit-worthy rental stream of \$1.7 million.

So in essence, in gross terms, we are facing a lack of somewhere in the range of \$35 million on a project in mid-construction.

The second issue I think I would like to address is that without wanting to debate Secretary Atherton's eloquent assessment of what constitutes hardship for a difficult site, I doubt if there are many projects that have gone through more reviews than this single project. When you listen to the litany of approvals we have obtained to build this project, you must ask yourself at the end if we have lost our mind or if we are philanthropists.

We have been in front of this Commission and the Old Georgetown Board I believe 17 times. We've been twice in front of the City Council. We've been in front of the mayor's agent. We've been in front of NCPG, the National Park Service, the Design Committee of the Department of Housing, many times in front of the ANC and Citizens Association of Georgetown.

VICE CHAIRMAN ROBINSON: Welcome to Washington.

MR. LANIER: And while I do this as a matter of life, never have I gone to this extreme. It has, as a result, been an extremely difficult project to bring about.

MS. FREE: These approval processes weren't added on after you started this. I mean they've been in place for years. Anybody that does anything in the city knows, residential or whatever, it is a long haul.

MS. MALINO: Especially your architect.

MS. FREE: I can't believe it's a great surprise.

MR. LANIER: We can all look back and say hindsight is 20/20 and while we're lucid people, it still turned out to be a much more elaborate process than any one of us had predicted. And nevertheless, with all our predictions, when you start into a process of this nature you do not have the ability to know everything up front. When you buy a site from the city in an RFP you don't know how deep your rock is, what kind of rock you have, if you're going to get water, if the chimney's going to fall, if the chimney's not going to fall, and what concessions you enter into during the course of that transaction.

As an example, we did not know that we would have to provide let's say 600 parking spaces. We entered into an agreement with the city to provide 250. In a site where you have a very marginal periphery since it is occupied by a major structure in the center you did not have the opportunity to provide these parking spaces. Hence we had to proceed and acquire eight other properties in order to find a block of space where we could put the parking.

In providing this parking structure we also came to this Commission and with the help of this Commission were given the ability to demolish some of the buildings which were found not contributing.

So when the Commission views the 40-foot height limit I do believe that the Commission has the opportunity to look at it in the context of what this project means, just as the Commission has an ability to look at an old building and determine if it is historically significant or noncontributing.

So without wanting to educate the Commission as to what is possible or not, I just beg to differ that this is simply an absolute term but needs to be seen in the context of the project. And if the Commission so finds, I'd like to have the opportunity to have our architect kind of explain what I've tried to do in commercial terms, a layman's terms, in an architectural context, perhaps simply for your understanding of our view. I understand that we don't have to have the same view at all times, that there's a right to differ, and I'm perfectly happy to accept that we don't come up with the same solution. I just want you to understand that our position is one which is based on veracity, true hardship, and always a desire to build in the context of what we believe in.

And we are a big believer of the historic district in Georgetown. I love it as much as anybody else and I always am trying to maintain it and hope that it will one day be the jewel of our nation.

So with that, if you'd be kind enough, I'd like to have Shalom speak a couple of words.

VICE CHAIRMAN ROBINSON: If I could just say a few words before Shalom speaks, I'm sure that your conversations with the secretary of the Commission were enlightening and that he presented our position

in very clear terms, which he did at the beginning of this meeting.

We want you to understand that we're constrained not by some discretionary ability to grant an additional floor. The reason I asked Mr. Atherton to speak about the exceptions to height and zoning in the city was for to purpose to understand clearly that we don't have the discretion to say, "Gee, we feel really bad for you. As you've said, the movie industry is in major disrepair and may be failing and we're willing to acknowledge that and to solve your problem for you."

We don't have that discretion. The Georgetown Act, in fact, is about height and density. Zoning, as Mr. Atherton said, the zoning exceptions relate to conditions contributed by the site, things that couldn't be foreseen when zoning was applied to the city lot by lot and it was to give owners and architects some maneuvering room to respond to their program and to the zoning law.

I'm just not aware of any exceptions to be made, either in the Old Georgetown Act or in the Zoning Commission's regulations for economic hardship.

I don't want to cut Shalom off and you must know that whenever he comes here we're all primed to sit and see what he shows us because it's always well done, as was this project. And I don't want to put him in the position of trying to make something real that's not going to be real. I mean we're constrained by laws and acts and we act within their framework and I don't know of an exception. And I asked Mr. Atherton is there an exception for economic hardship and there is none. If there was a way for this Commission to assist you and not violate the tenants on which we stand, we would certainly do that but I don't know what they are.

If Shalom is going to make that presentation, I'm perfectly willing to hear what he has to say and I will take my hat off to him but I don't think that that avenue is available to any of us.

MR. LANIER: I don't believe that our case is based on hardship. I'm chipping away on Shalom's time but the trigger of this issue is based on economics but the variance we're seeking is because we do not have, as a result of the unique aspects of the site, the ability to add mass without dealing with height. If we had a lot of surface we could easily come to you and say let's not argue about height; why don't we just try and declare the incinerator's a noncontributing building and then we have space to resolve this.

So the uniqueness of the site is what creates the difficulty. The fact that we're only able to build on, let's say without being necessarily perfectly accurate, on 50 percent of the site and 50 percent of the site is occupied by openness, space, and the incinerator structure, and that, I believe, is our argument.

Had we known what we know today, we could have easily approached this project as was suggested by the city, as a PUD, and we would have had the ability to build up to 60 feet and change all sorts of things in our life that I wish we had. But our intent at the time was to build a matter-of-right project and I feel stupid today in the middle of construction trying to amend the project. It's not desirable. Had I known that this is--the next time I'll know better and build myself this flexibility but our goal was to be as fast as possible within the envelope prescribed.

VICE CHAIRMAN ROBINSON: Mr. Atherton, would a PUD designation have allowed them to exceed what is now imposed in terms of height? That development strategy doesn't override the zoning law or the Old Georgetown Act?

MR. ATHERTON: No. I mean if they'd gone the PUD route, from our perspective the 40-foot regulation would prevail in the determining of the [inaudible]. There's no doubt about that.

MR. LANIER: That draws a legal conclusion and I'll turn it over to Shalom.

VICE CHAIRMAN ROBINSON: It's strange to see you without drawings but please--

MR. BARANES: I was going to say there are two things here I've never done before. One of them is talk to you without drawings, although I do have drawings, and the other thing is talk to you about zoning, which I've also never done before.

Let me start. I'll limit my presentation to that discussion of these issues of zoning. Let me start with just one very straightforward, simple issue, which is the FAR that I think Mr. Atherton discussed this morning.

This is a case where the topography is not working for us; it's actually working against us. If you look at our zoning submittal to the District, and I think you have copies of that here, what you will see is that 23 percent of our FAR, allowable FAR, and that equates to 58,000 square feet, is below the South Street level.

7.

So, in fact, we're losing--a lot of that area down on K Street, the area above it, there are several levels buried into the hill, there are some fairly intricate calculations associated with that and the cost against the project is 58,000 square feet. That's just a zoning calculation we went through and it's been accepted by the District and that's how we're building.

So of the 248,000 square feet that are allowed in the FAR, 58,000 are below the South Street elevation. Now let me talk a little bit about--yes?

VICE CHAIRMAN ROBINSON: And your point about that 58,000 square feet is what?

MR. BARANES: I was really just trying to clarify a statement that was made this morning where I think the point was made that none of that area counted against us in the FAR. In fact, it does count against us. It's part of that calculation.

The reason it's important here is because that area--first of all, when you start down on the K Street level there's very limited uses you can place down there for different reasons. There's a prohibition against placing any residential down there, any hotel rooms down there because the 100-year flood level is at elevation 17.5. K Street down there is about elevation 10, 10.5. So there are really very limited uses that you can place down there.

We were very fortunate in this instance to have the theaters. They're one of the few uses that actually will go into the 100-year flood plain level. A lot of retailers won't do that. Some retailers will. But in terms of requirements that we have to meet, we cannot place any of these other uses down there. We could never insure it.

So that is an issue. We're struggling with the fact that anything we put down there does count against the FAR. Then, on top of that, the uses are limited that we're allowed to place down there.

Now with respect to the test that we have to meet with regard to this variance that we're asking for, and I think Mr. Atherton read part of it to you this morning, it does have to do with the uniqueness of the site and the practical difficulties the site creates against the design of the project. And we have designed and gone through the Board of Zoning Adjustment many, many times over the last 20, 25 years where we had historic buildings on our site and because of the presence of a historic building we could not achieve the FAR, we could not achieve the height, we could not achieve the set-backs and the board has routinely accepted the presence of these historic buildings on the site as meeting that test of the zoning.

And Mr. Nettler informed me this morning that actually it has been contested in the courts and it's been upheld. That's second-hand information as far as I'm concerned. All I can attest to is the fact that we have been through this process ourselves and the board has accepted the presence of historic buildings as creating practical difficulties.

So on this particular site the parcel that we started out with was the incinerator parcel, the historic parcel, which ran from South Street--it's a single lot all the way down to K Street. The measuring point there, the way zoning allows you to measure and the way the FAR is calculated essentially yields you a situation where a lot of that space that you have to insert at the bottom of the site in the flood plain counts against you in the FAR and the zoning does accept that as a practical difficulty attributable to the uniqueness of the site. That's a fairly straightforward argument.

The other issue as it specifically relates to height that I think is really important to think about is the fact that we have W-1, W-2, W-3 in Georgetown and the heights for those three zones are 40, 60 and 90, I believe. When you look at the zoning regulations it's only in the W-1, which is the zone that we're in, that you are allowed through the PUD process referred to this morning to go up to 60 feet, to get an increase in height, an additional 20 feet.

When the zoning regulations were changed back in the '70s it was only in the W-1 that this incremental increase in height was allowed. If you look at the PUD regulations for W-2 and W-3, you're not allowed any additional height. With the PUD, height limitations are 60-60-90. Without the PUD they're 40-60-90.

So it's only in this zone that you're allowed to increase the height and I think that was done because there was a recognition that in W-1 you would have a lot of issues with topography, as Georgetown is laid out, and that buildings in special circumstances should be allowed to go taller.

And the only other issue I want to make, and I am going to show a drawing here if you don't mind, when we were here a long time ago, 15 years ago, this is the K Street elevation as seen from the river. This is the Whitehurst Freeway. I remember we had a lot of photographs, as well as a drawing similar to this, that addressed the issue of the height along K Street moving from the west to the east and there was, I think, a confirmation of the notion that the height is tall on the west side and it steps down towards the east and the dotted line you're seeing here is Washington Harbor across the street.

Now what we've drawn here is the project with the proposed additional 10 feet. And I think that this relationship and these buildings stepping out to the east is something that the Commission--I remember that Mr. Brown specifically commenting on this, that this was an important feature, that there was a stepping down that would, in a sense, reinforce a pattern and a skyline.

And I think it's important to understand that we are still maintaining that. And I think in terms of the stepping the project still works very well.

Then, of course, you have the issues of what are the sight lines as you go down Wisconsin Avenue. It's 31st Street. I won't go into them but I do have other boards if you want to see them. But because we added these setbacks that the Citizens Association of Georgetown asked for, and you did not see those last time, but we've reintroduce an additional 12 feet of setbacks in the top floors, your view of the river as you go down Wisconsin or 31st is essentially the same under this plan as it is under the plan that's been approved and is currently under construction.

It's this old top floor and its relationship to the penthouse that control your views of the river. When you look at the way we've added this floor and set it back, they don't in any way really impinge on the views of the project that you approved in the past year.

So those, I think, are the essential issues and it looks like I must have left something out.

MR. NETTLER: Richard Nettler. I just want to just for two minutes add something because I think a context in terms of the waterfront zone is important to understand also because there was a very unusual rezoning that was done in 1973.

If you know your history of the District, which I know you do, it was prehome rule and it was the only instance in which there had been a litigation that had been brought against the District to ensure, prehome rule, to ensure that the zoning in the District was consistent with the comprehensive plan because at that time the comprehensive was the National Capital Planning Commission's comprehensive plan, which had been adopted in the late '60s.

What happened was this Commission actually had approved development in Georgetown that was perceived by the National Capital Planning Commission, that was the Inland sight, which is to the east of this sight, that was, in the view of the National Capital Planning Commission and the Park Service, at a height that was greater than what the Park Service believed was appropriate and the National Capital Planning Commission.

What's important about this is that the Citizens Association of Georgetown urged the Zoning Commission on an emergency basis to adopt regulations to change the height, to reduce that height, which the Commission on Fine Arts supported, and to reduce that height down, as Shalom says, to the W-1 at 40, W-2 at 60, W-3 was at 90. Actually, W-2 is all along here; W-3 is down here.

And in adopting that on an emergency basis the Citizens Association of Georgetown sued the city because they felt that in allowing these other projects to go forward they were still violating the comprehensive plan.

In the only decision addressing this issue, because home rule came into effect in 1974, the United States Court of Appeals directed the Zoning Commission to issue what's called in federal terms a basis and purpose statement, which doesn't exist under the local Administrative Procedures Act. And while that case was pending the Zoning Commission then went back and issued a statement and in that statement they addressed the issue of the topography of Georgetown, the heights that they were setting in Georgetown and the densities and why they were picking certain sites to have that height, as well as the fact that they had adopted these PUD regulations, which only, as Shalom said, in the W-1 would allow you to go above what they were setting as

the height for matter-of-right projects.

And they did this because they understood that there were one, the W-1 was being done along the canal and there was a particular concern by the Park Service, which was reflected in one member of the Park Service, who was Mr. Stanton, who was a part of the Zoning Commission, was concerned about the heights along the canal; two, on the river side of K Street, which is going to be a park area and where you had the boat houses, and the only other site that had been selected was this site, the incinerator site, because, as was stated in the basis and purpose statement, they wanted to make sure that the vista down Wisconsin Avenue was preserved. But they recognized, because of the topography, that through the PUD process you could build up to 60 feet because that would still preserve the values that they were seeking to protect under that zoning.

We are less than that 60 feet that was authorized and still is in effect under the zoning regulations as a PUD. And, as Shalom stated, because we've stepped back the building as suggested by the Citizens Association of Georgetown, we are back at 40 feet along Wisconsin Avenue in terms of the vista.

So we have done exactly what the Zoning Commission expected to be done in 1973 for this project. One, to make sure you retain that vista along Wisconsin Avenue; and two, as actually Mr. Hood, a member of the Zoning Commission, recognized and the Office of Planning did at the hearing two days ago, that this project's reviews--and that's why I think Anthony was getting into all the reviews--is analogous to a PUD project.

The Department of Housing and Community Development had urged us when the project started to do this as a PUD, which would have allowed us to go to 60 feet. We thought all along that we could do this within the 40 feet because we never anticipated the movie industry to go bankrupt. And, as Loew's has told the Board of Zoning Adjustment, 10 of the major movie companies around the country have all gone bankrupt and the Park Service has actually supported us in the seeking of this variance and has submitted a letter to that effect.

So we've done everything that was authorized under the zoning regulations. We're not above the 60 feet. We're actually below 60 feet. We are at 40 feet along the vistas. And in terms of the area, most of the area is additional area that's being sought is actually inside the building. It's inside the building because we've turned what used to be unproductive space into usable space and that's where the additional density comes in. You don't see that additional density. The only additional density you see is in those small little pieces on K Street that are framing the incinerator tower.

And I just wanted to at least clarify that aspect of it. The Zoning Commission's basis and purpose statement is extremely long. It's about 30 pages. You can see for yourself it goes into all these issues of what it understood to be the issues that were raised, why it was protecting the Inland Steel site, why it was doing the different height limitations, but it did create for this site the opportunity to go to 60 feet. Thank you.

VICE CHAIRMAN ROBINSON: Mr. Atherton, has, in fact, the Park Service supported this project?

MR. ATHERTON: They have no objection to the design. [Inaudible]. They did not address the 40-foot limit in the context of the original zoning envelope. I checked with Mr. Parsons this morning.

MR. NETTLER: I can provide to you the letter from the Park Service to the Board of Zoning Adjustment supporting the variances that were sought by the applicant. It was submitted to them. The representatives of the Park Service unfortunately were here this morning; they could have attested to the exact same thing. They submitted a letter in support of the variances that were being sought. If you'd like me to provide you with the letter I can do so.

VICE CHAIRMAN ROBINSON: I would like to see that, yes. Do you have it with you? Send it to Mr. Atherton.

MR. NETTLER: They had the letter actually with them this morning when they were here and unfortunately they've left.

VICE CHAIRMAN ROBINSON: Are there comments from the Commission?

MS. MALINO: I think we've pretty much said everything at our last meeting and I don't really see anything new here.

As you know from now having worked in Georgetown for several years, and some of us who've lived

in Georgetown for many more than that, there are many rumors floating around. One is that all of the residential units have been sold and second, that there's already an applicant for the theater space from Canada.

Now those are probably two wild rumors but they are circulating, as you probably know.

MR. LANIER: I can assure you we have not sold one square foot.

MS. MALINO: Not one square foot?

MR. LANIER: Not one.

MS. MALINO: And why is that?

MR. LANIER: Because we have not marketed it. We have never entered the market for space. We have only issued plans on the space some 60 days ago. We have not sold, contracted to sell, not promised to sell or any form of agreement whatsoever with anybody on any square foot on this project.

And while it is true that we intend to move forward with the theaters, it is based simply on the basis that we have just built them. They're built.

MS. MALINO: I understand that. So you are proceeding with looking for a tenant?

MR. LANIER: No, the theaters who were willing to operate them always are willing to operate them. The major difference is not that we won't have any movies anymore. It is who has the risk of building a movie?

Yesterday the risk of building movies was with the movie companies, who understood the risk. Today the risk of building movies is with the building owners, who don't understand the risk and this is an occurrence of 60 days.

While your Commission is not dealing with it, there is a well known project in the city called Gallery Place which started before we started the incinerator project, which has \$100 million of city capital support and still has not commenced construction because precisely of this issue, and now is going through a process of redesigning the building, decreasing the movies, decreasing the residential and adding office space.

All I'm trying to say is that every project you can look at which involves movies today is going through a redesign--a financial redesign and a structural redesign. We're just one of many.

So what is important to understand is the movie operators love operating the movies but instead of them paying us, we will be paying them. And the difference is simply somewhere in the range of \$25-35 million we have to find without being able to show anybody credibly that there will be earnings against this \$25-35 million because all we will get is if the movies are profitable, we will get something but if they are not profitable, none of which we truly understand, we may get nothing or very little or not the commensurate amount.

So it's really an odd situation we find ourselves in which has triggered us into this position, but certainly not one we treasure or anticipated. Thank you.

MS. MALINO: One other question. You mentioned that the existing building, the incinerator, placed undue hardship on your project because it was there as part of the original structure and had it not been there, you would have had that exchange of square footage to use in a more profitable way.

But there was an article in the Washington Post quite recently saying that the hotel was going to use the incinerator space as part of its lobby. Is that correct?

MR. LANIER: There are two answers that I have to it. One answer is that we always have attempted in a consensus with your committee and the Old Georgetown Board to retain as much as possible of the open industrial volume of the incinerator. So I don't know if you've ever been inside but there are very few intervening structures within the volume once you take away some of the crane and so on.

And so we're retaining this openness in the incinerator so that when you walk in underneath you know where you are. So while we're utilizing it, we certainly are not utilizing it anywhere close to capacity.

The other point I was trying to make is notwithstanding the incinerator volume, if there was no incinerator we would have a third more or half more of the site to build on.

And the third thing the incinerator has created is that it was an obstruction in order for us to deliver, subsequent to our acquisition, a concession to the citizenship that made it important for them. There is no requirement under zoning or any law to build one parking space in this project.

So 600 parking spaces in a site which is occupied at the time we bought it by 50 percent by, I think,

a 90-foot tower and an incinerator was basically that you had to carve out every parking space with a toothpick. You had to literally have like a moon-shaped site to work with, which made it impossible to deliver any parking whatsoever. That was the basis of every failure of this project previously, because it always was looking for parking and nobody could provide it.

MR. NETTLER: I guess trying to be somewhat exact, there's a terminology here that I want to make clear. We're not saying that the incinerator creates a hardship for us. What we're saying is that before you get to the issue of whether--one of the first things you have to get to in the zoning process to determine whether you're entitled to an area variance is whether there is something unique about the site. And our argument is that there are historic buildings on the site that are unique.

Because this is a building that you did deal with, the Corcoran, not the present situation going on with the Corcoran but a few years ago when the Corcoran came before you for an addition, there was a zoning case attached to that and a group of adjacent property owners--you had approved the project and the Board of Zoning Adjustment approved the project and a group of property owners had sued the Board of Zoning Adjustment to overturn that.

The Court of Appeals said that when you have a historic landmark building that that in and of itself settles the first part of the analysis in terms of whether you're entitled to a variance. The Corcoran was a landmark. It's unique. There are a lot of landmarks around Washington but merely having a landmark building on your site creates uniqueness. That doesn't mean you're entitled to a variance but that settles the first part.

The second part is does the fact that you have the buildings on there create your practical difficulty? The practical difficulty is that because they're on the site and because the Advisory Council on Historic Preservation, the National Capital Planning Commission and the District of Columbia all signed a memorandum of agreement that would put a covenant on the site that precluded us from removing the incinerator building and we can't remove the Brickyard Hill House, which is a landmark building, that we can't move this additional FAR that would have solved our problem into the area where those buildings occupy.

So that's the practical difficulty. It's not that this is a hardship issue. We're not claiming a hardship issue. We're claiming these two components of the area variance requirements.

Then the last requirement is, and I know you're not the Board of Zoning Adjustment and I'm sorry that I'm giving you this--the last requirement is the zone plan. And I understand that's where you get into the issue of the 40-foot height. And that's where our argument comes back to when you look at what the Zoning Commission said about its rezoning for W-1, it allowed you to go to 60 in a W-1 zone and it recognized that the topography of certain sites--and actually ours is the only one that has the topography in the W-1 that creates this issue--that you could take advantage of that topography and use the variations in the topography to actually give you a higher height to 60 feet for the PUD for this site.

And the interesting thing is the Zoning Commission made it absolutely clear when they set this 40-foot height and, at the same time, recognized the topography in the 60-foot height that they said and specifically said this, we're not saying that this is going to result in--because we wanted residential--that this is going to result in townhouses being built. We understand that if you take this topography you could build apartment buildings because you could take advantage of the fact that, as we are, you've got South Street as your measuring point, you've got a site that's a W-1, you can go up to 60 feet through a PUD process or 40 feet through the regular matter-of-right process and still accomplish the objective that they were seeking, which was one, more residential; two, which was an entertainment area that they wanted on the waterfront, which is exactly what this was; and three, the elimination of these abandoned warehouses.

That's the context in which you get into the zone plan and why they rezoned this and how we fit into that zone plan, which you supported. You did. You supported the rezoning. You testified in support of the rezoning that was done because you wanted the heights to be lowered. You wanted to make sure that these things could be accomplished but, at the same time, recognized that there was a way to accomplish this within that rezoning that was being done.

VICE CHAIRMAN ROBINSON: I'm sitting here and I put my developer hat on. I'm thinking that if there was an opportunity to do the additional height in whatever case, in W-1, the developer wants to

maximize the site. Why wasn't this done as a beginning point? Why did we not see this additional story earlier on? I can't imagine giving away this space if you had it as a matter of right in the beginning.

MR. LANIER: From a development standpoint we wanted to build a matter-of-right project in Georgetown. We had no intention of pushing the envelope. I have in 17 projects in Georgetown never sought a variance for anything. To the contrary, I'm also very understanding of the fact that sometimes I didn't even get to build the full FAR, as in the Eagle Liquor property, where I'm building three stories instead of five stories or whatever I could have done.

So we really, our intent was to build a matter-of-right project and to expedite the process. In the process itself certain issues came up with the citizens in order to accommodate them, such as the parking. We started off with a small arts theater with the limited parking that we had to provide. When the issue of the waterfront parking raised its head and people asked where are these hundreds of cars going to go, that drove us to double the size of the project.

So this has been a project which has changed all the time during the first, let's say, 12 to 18 months, on intent and size. And if you then add on top of it that we should have stepped back and then done a PUD, in retrospect, that's what we should have done. But our goal was always to build it as a matter of right. I hope-

VICE CHAIRMAN ROBINSON: But the city would have given you the matter of right of the additional density and height. You don't put your money in the stock market not to maximize it and I would assume that you wouldn't put your money into this not to maximize it.

MR. LANIER: This could get into a long story but I can assure you that everything we do in Georgetown is not driven to maximize our profit. That is 80 percent emotion and 20 percent in hope of profit sometime down the road. But since nobody else seems to be doing what we're doing, it is a test to the uneconomic basis of our venture.

And contrary to our process on the incinerator, another project we did build in the West End, we did push everything to maximize profit. We were not in a historic zone. We were building on a parking lot which had for three attempts to get a PUD accomplished failed. We still went back into PUD and succeeded.

So while we are for profit, it just did not seem that this project lent itself to that. And when you look back in history, it certainly doesn't.

VICE CHAIRMAN ROBINSON: I agree. So now you've come to this point because of the financial strain of a major tenant who's pulled out and the possibility of a similar tenant not taking that space and then you're having to carry that financial burden rather than the theater--

MR. LANIER: No, the cinema will take the space. We will have a cinema. It's just that we need to carry the financial burden.

MS. FREE: Let me be sure because I am really confused. I heard the last time you were here the cinema was pulling out and because of financial hardships you needed to add a floor. And that's the way I assumed we were approaching it. That's what I thought I was looking at.

I'm hearing today that you want to add the extra floor not because of financial hardship. Mr. Nettler says it's really not a financial hardship but you tell us you're losing \$25 million and you've got to have the floor because of the cash thing.

MR. LANIER: I don't want to walk around the word "hardship."

MS. FREE: [Inaudible].

MR. LANIER: I don't want to. I just want to affirm that the cinemas will operate.

MS. FREE: But not in the same way that you had planned for them to operate. It still has a financial impact. It's that financial impact that's causing you to seek the variance for the additional height because you were going to build a matter-of-right building.

MR. LANIER: That's the triggering event.

MS. FREE: So it is the financing or the financial hardship that is causing this request for the redesign of an extra floor.

MR. LANIER: Without getting into terminology, it is the financing, the lack of a financial contribution

in excess of \$25 million, as evidenced in the letter by Cineplex to the Zoning Commission which I'm happy to provide you a copy with.

MS. FREE: That's what I'd understood but then I heard somewhere along the line that it wasn't really finances that was causing the request for this.

MR. LANIER: It's a technicality.

VICE CHAIRMAN ROBINSON: Excuse me. Mrs. Brody has to go and she has a comment. Mrs. Brody, please?

MS. BRODY: I just would like to say one thing because I did speak on this at the last meeting. I have, and I think we all do, a fair amount of sympathy. I have to say first that I don't have sympathy for the litany of approvals because this is a complicated project and that's the real world so I don't respond to that.

I do have a certain degree of sympathy for mid-course corrections that are mandated from something that you can't control. I think this is more complicated now to us than it was before simply because in a way you have terrific advantages from the topography of this site, which you've exploited, and yet at the same time you're trying to appeal a different thing.

I also have a fair amount of sympathy for your ability if it came to this to handle this from a design standpoint and I said as much the last time you were before us. But upon reflection and seeing the correspondence and reading the BZA, whatever this is, I don't feel that we are the commission to break you out of this process. I don't think it's appropriate for us to do that. I don't think in this case it's appropriate for us to take the lead. We don't take the lead in general over the Old Georgetown Board. I wouldn't do it here, as I said before. You have complications with BZA.

So much as I think there is some sympathy to where you are, I honestly don't feel that we're the ones to break you out of it.

MR. LANIER: And I appreciate that and--

MS. BRODY: And I wanted to tell you that I think I have a little more sympathy than some others for the height variance, et cetera. I clearly am in the minority but, at the same time, from a precedent-setting standpoint and the standpoint of what's our mandate as a Fine Arts Commission, I don't see where--I would not feel comfortable taking the lead to kind of break this cycle.

MR. LANIER: And I appreciate that and I don't believe that we wanted to pressure you into a zoning decision or seek a zoning decision. We wanted to avoid a zoning decision by this board.

VICE CHAIRMAN ROBINSON: And with that comment I would like to thank you for the presentation and tell you that we will take under consideration your request and at such point that there's a need for us to respond to you, we will do that.

MR. NETTLER: There was a question that, in part, was directed to me because I made a statement that I think added some confusion. If I could just clarify that?

VICE CHAIRMAN ROBINSON: Sure.

MR. NETTLER: I meant hardship in a legal sense because hardship under the zoning regulations requires you to do something else other than what we're doing.

But actually, and I don't want to get into the legal issue here but the court has said in a case *Gilmartin* versus the Board of Zoning Adjustment, that economic considerations are specifically permitted in an area variance issue to address practical difficulties. It doesn't create a unique thing. It's not a hardship issue. The economic considerations can be addressed as part of the practical difficulty of trying to do something. That's the only context in which we bring up the economic issue. And with that, thank you very much.

VICE CHAIRMAN ROBINSON: Thank you very much.

There's a motion on the floor to approve the Old Georgetown appendix. Those in favor indicate by aye.

[Chorus of ayes.]

VICE CHAIRMAN ROBINSON: Opposed?

Carried. Approved.

19 April 2001

EXHIBIT I

**OLD GEORGETOWN ACT
AGENDA ITEM EXHIBIT**

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
O.G. 01-90	3100 South Street, NW	Addition of one
HPA. 01-190	Millennium Georgetown Partners	residential floor
	Georgetown Incinerator	- revised design
	The Ritz Carlton	- conceptual

ACTION: See letter to Ms. Sheila Cross Reid, Chairperson of the Board of Zoning Adjustment for the Government of the District of Columbia, dated 11 April 2001.

19 April 2001

EXHIBIT I

**SHIPSTEAD-LUCE
AGENDA ITEM EXHIBIT**

<u>NO.</u>	<u>ADDRESS AND OWNER</u>	<u>PROJECT</u>
S.L. 01-026	2800 Davenport Street, NW. Fischman/Rabinowitz Residence.	New single family dwelling. - Concept.

ACTION: ITEM ON HOLD
